to hear the President or any representative of the Union personally.

As to this matter, I do not consider that it is obligatory for the Minister actually to hear an appellant or any witnesses on his behalf in person.

In *Local Government Board* v. *Arlidge*[1] at page 132 Lord Haldane stated that the duty of a tribunal which is entrusted by statute with the decision of appeals is to deal with the question referred to it without bias and to give to each of the parties the opportunity of adequately presenting the case made. He went on to say that while the decision must be come to in the spirit and with the sense of responsibility of a tribunal whose duty it is to mete out justice, it does not follow that the procedure should in every case be the same or that it need conform to that followed in a Court of Law.

The case in question related to a local government board, and Lord Haldane added: "I do not think the Board was bound to hear the respondent orally, provided it gave him the opportunities he actually had." The opportunities referred to were the opportunity to present his case; and in the present matter, having regard to the mass of documents adduced by the appellant, which according to the affidavits were duly considered by the Minister, I am unable to take the view that such an opportunity was denied.

It was further contended on behalf of the applicant that the Minister's decision was unreasonable. Now in a case such as the present where the Legislature has entrusted the decision of an appeal to a particular person it would, in my opinion, be wrong for this Court to substitute its view of what is reasonable for that of the Minister, who is the person appointed by the Ordinance. Individual opinions of what is reasonable do not always accord, but before an order of a tribunal or person appointed by statute to determine a particular matter can be set aside it must be so manifestly unreasonable as to lead irresistibly to the conclusion that the tribunal was either biassed, or perverse, or did not trouble to consider the matter judicially at all.

To adopt a wider view of the functions of a Court in proceedings of the present kind would, as I have said, amount in effect to a substitution of the opinion of the Court for that of the tribunal or person duly appointed by law. These considerations were exhaustively dealt with by Lord Greene M.R. in *Associated Provincial Picture Houses, Limited* v. *Wednesbury Corporation*,[2] at pages 228 *et seq.*

With regard to the facts of the present matter, even assuming that there is room for a genuine difference of opinion as to whether the fact that a trade union is "a one man show", with the consequent preponderant individual influence of the person in charge of the affairs, financial and otherwise, of the Union, is a good ground for cancellation of the registration of the Union, I find myself quite unable to say that the Minister's view of the matter is manifestly unreasonable. The decision of the question must depend not only upon principle but also upon the particular facts; and those, it seems to me, are eminently matters that the Legislature has entrusted to the decision of the Minister. The Minister having come to his conclusion, there is, in my opinion, no room for intervention by this Court.

For these reasons the rule must be discharged with costs.

Application dismissed.

Solicitors: *Muthu & Co.*

Re MOHAMED SHARIFF

[R. Cr. J. (Rigby J.) October 31, 1960]

[Penang — Criminal Revision No. 8 of 1960]

Penal Code, s.182 — False statement made in mitigation of sentence — Whether accused can be prosecuted.

An accused person, who upon conviction, makes a false statement in mitigation of sentence, cannot be prosecuted in respect of such false statement under section 182 of the Penal Code.

[Editorial Note: Reference may also be made to *Emperor* v. *Matan* (1911), I.L.R. 33 All. 163 and *Queen Empress* v. *Subbayya* (1889), I.L.R. 12 Mad. 451].

CRIMINAL REVISION.

Rigby J.: The accused was convicted in the Magistrate's Court, Penang, of an offence contrary to section 182 of the Penal Code, of giving false information to a public servant with intent to cause that person to use his lawful power to the injury or annoyance of another person. The actual particulars of the charge were that the accused, on the 20th day of June, 1960, at George Town, gave to Enche' Mohd. Eusoff bin Chin, a public servant, certain information, to wit, that he had been carrying on a character lottery, with the help of bettors who were members of the Police Force and ranged from named Police Inspectors to Police Constables, that such information was, to his knowledge, false and that it was given with the intention of causing the public servant to use his lawful power to the annoyance of the said Police personnel.

The accused claimed trial to the charge. He was duly convicted and fined $25.

I am entirely satisfied that the charge was wholly misconceived, that it should never have been brought, that the conviction must be quashed, and the fine repaid to the accused.

The charge itself arose directly from a statement made by the accused to the Magistrate, Enche' Mohd. Eusoff bin Chin, in the course of criminal proceedings brought against him on a charge of assisting in carrying on a public lottery. The accused pleaded guilty to that charge. When asked if he had anything to say before sentence was passed upon him, he made

the statement alleging that the lottery had been carried on with the assistance of, and primarily support by, Police personnel, the names of some of whom he specifically mentioned. He was then fined $100/- or one month's imprisonment. The Prosecuting Officer himself then asked for a copy of the statement made by the accused so that it might be referred to the Police Authorities presumably for further investigation. Presumably such statement was investigated and, in the opinion of the Investigating Authorities, found to be untrue. Hence the charge against the accused.

It is of fundamental importance to observe the offending statement made by the accused was made by him upon allocutus and before sentence, that is to say, it was made by him after he had pleaded guilty to the charge of assisting in carrying on a public lottery and in the exercise of his undoubted right to be heard in mitigation of sentence before punishment was imposed upon him. His plea, that Police personnel in general, and certain specified ones in particular, formed part of his clientele was no doubt put forward as a matter which, at any rate in his mind, was intended to provide some sort of a defence or excuse to show the circumstances in which he had been carrying on the lottery. Once it is accepted that what was said by him was said in an attempt to influence the mind of the Magistrate and to persuade him to inflict a punishment lighter than he would otherwise have done, it is wholly irrelevant that his statement also implicated, whether truthfully or otherwise, Police personnel. An unsworn statement made in such circumstances is privileged and the statement itself cannot be the subject matter of a further charge. The position would undoubtedly have been different if, after the fine had been imposed, the accused had asked to see the Magistrate and, of his own volition, made a statement implicating named Police personnel as assisting him in the carrying on of the lottery. But that was not what happened. The conviction must accordingly be quashed, the fine set aside, and such part of it as may have been paid refunded to the accused.

Order accordingly.

NG KWEE PIOW v. REG.

[C. C. A. (Rose C.J., Tan Ah Tah and Chua JJ.) September 27, 1960]

[Singapore — Criminal Appeal No. 16 of 1960]

Criminal Law and Procedure — Caution — Witness of insufficient intelligence not cautioned in express terms — Oaths Ordinance (Cap. 8), s.5(2) — Whether irregularity or illegality.

Criminal Procedure — English law — Application of — Criminal Procedure Code (Cap. 132), s.5.

Evidence — Corroboration — uncorroborated evidence of an unintelligent girl.

The appellant was convicted by a majority verdict of the jury of robbery and abetment of rape. The case for the prosecution depended on the uncorroborated testimony of a girl of some 17 or 18 years of age whom the learned Judge considered to be of insufficient intelligence to be sworn or affirmed.

On appeal, it was urged on behalf of the appellant that section 5(2) of the Oaths Ordinance was not complied with in that the witness was not cautioned, in express terms, "to speak the truth, the whole truth and nothing but the truth," in accordance with the requirements of the sub-section; secondly that by virtue of the provision of section 5 of the Criminal Procedure Code, the provisions of section 38(1) of the Children and Young Persons Act, 1933 should be imposed into the law of Singapore and lastly that the conviction on the uncorroborated evidence of a child should not be allowed to stand.

Held: (1) the caution laid down in section 5(2) of the Oaths Ordinance was not given in the form prescribed by the section; that however is merely an irregularity and not an illegality and is therefore a proper subject for the exercise of the discretion referred to in the proviso to section 6(1) of the Court of Criminal Appeal Ordinance (Cap. 129);

(2) section 5 of the Criminal Procedure Code is limited to matters of criminal procedure and therefore cannot fairly be held to extend to matters of evidence. The law applicable to Singapore on the question of corroboration of the unsworn evidence of a child is the same in this respect as that applicable to India and is correctly stated in the Privy Council case of *Mohamed Sugal Esa Mamasan Rer Alalah* v. *The King* (1);

(3) in the light of the special factors in this case, it is eminently a case in which any jury should hesitate long before relying upon the entirely uncorroborated evidence of an unintelligent girl. The evidence in this case was by no means strong and was such that it required the very closest examination before acceptance. In this light it was unfortunate that the learned trial Judge qualified or put a gloss upon, his very necessary warning that in practice corroboration in such a case is always looked for. It should be accepted now in criminal courts that the rule of prudence is one of such practical good sense that it should only be departed from in the most exceptional case and it can certainly not be said that this case is such a case. While no doubt the jury took an adverse view of the appellant and by their verdict expressed their satisfaction of his guilt, it is considered that this is a case, for reasons already given, where it is unsafe to allow the conviction to stand.

Cases referred to:—

(1) *Mohamed Sugal Esa Mamasan Rer Alalah* v. *The King* [1946] A.C. 57, at p. 62.

(2) *Dennis Gammon* (1959), 43 Cr. App. R. 155.

CRIMINAL APPEAL.

David Marshall for the appellant.

A. W. Ghows (Ag. Senior Crown Counsel) for the respondent.

Rose C.J.: The appellant was convicted by a majority verdict of the jury of robbery and abetment of rape.

The case for the prosecution depended on the uncorroborated testimony of a girl of some 17 or 18 years of age whom the learned Judge considered to be of insufficient intelligence to be sworn or affirmed.

The first point taken on behalf of the appellant is that section 5(2) of the Oaths Ordinance was not complied with in that the witness was not cautioned, in express terms, "to speak the truth, the whole truth, and nothing but the truth", in accordance with the requirements of the subsection. It was pointed out that whereas irregularities in the form of an oath or affirmation are saved by section 9 of the Ordinance,